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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,636	02/10/2001	Marc Alan Ehrlich	ARC920000113US1	9342

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EXAMINER

RHODE JR, ROBERT E

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 10/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/780,636

Applicant(s)

EHRlich ET AL.

Examiner

Rob Rhode

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4 - 9, 11, 14 - 18 and 20 - 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4 - 9, 11, 14 - 18 and 20 - 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

In Applicant's amendment of 8-27-04, the applicant traversed rejections of Claims 1, 4 – 9, 11, 14 – 18 and 20 - 26.

Currently, claims 1, 4 – 9, 11, 14 – 18 and 20 - 26 are pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4 – 9, 11, 14 – 18 and 20 - 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over International Patent Application WO 00/31657 by Van Den Berghe in view of Phillippe (US 6,643,624 B2).

Regarding claim 1 and related claims 9, 11 and 18 (Currently amended), Van Den Berghe teaches a system, computer program and method of automating an electronic-commerce transaction using a virtual shopping cart initiated at a host site, comprising: storing information about a plurality of schemas used by a plurality of heterogeneous and unrelated merchants' sites (see at least Abstract and Figure 4). Please note that the

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word "unrelated" was not defined in the specification. Moreover, the word "unrelated" could not be found in "Merriam-Webster's Collegiate Dictionary", Tenth Edition. In that regard and for examination purposes, the word "unrelated" was interpreted as online commerce sites, which are independent businesses entities with separate legal ownership and thereby "unrelated".

However, Van Den Berghe does not specifically disclose and teach a system, computer program and method of creating the virtual shopping cart based on a user's search query; monitoring the content of the virtual shopping cart; and collecting and managing information from the plurality of heterogeneous and unrelated merchants' sites, across multiple independent transaction sessions initiated by the host site, based on the user's search query, and returning a corresponding comparative search result, without requiring the user to leave the host site to visit the plurality of heterogeneous and unrelated merchants' sites while the comparison shopping engine is automatically collecting and managing information from the plurality of heterogeneous and unrelated merchants' sites; and selectively communicates with the plurality of heterogeneous and unrelated merchants' sites using at least one of the schemas in the merchant schema database in order to execute a transaction for each item in the virtual shopping cart.

On the other hand, Phillippe in the same area of electronic commerce transaction using a virtual shopping cart teaches a system, computer program and method of creating the

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virtual shopping cart based on a user's search query; monitoring the content of the virtual shopping cart (see at least Abstract and Figures 2C, 3A & B); and collecting and managing information from the plurality of heterogeneous and unrelated merchants' sites, across multiple independent transaction sessions initiated by the host site, based on the user's search query, and returning a corresponding comparative search result, without requiring the user to leave the host site to visit the plurality of heterogeneous and unrelated merchants' sites while the comparison shopping engine is automatically collecting and managing information from the plurality of heterogeneous and unrelated merchants' sites (see at least Abstract, Col 2, lines 49 – 53 and lines 59 - 64, Col 3, lines 1 - 24 and Figures 1C & 2C); and selectively communicates with the plurality of heterogeneous and unrelated merchants' sites using at least one of the schemas in the merchant schema database in order to execute a transaction for each item in the virtual shopping cart (see at least Abstract and Figures 2D 3C).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the system, computer program and method of Van Den Berghe with the system, computer program and method of Phillippe to have enabled a system, computer program and method of automating an electronic-commerce transaction using a virtual shopping cart initiated at a host site, comprising: storing information about a plurality of schemas used by a plurality of heterogeneous and unrelated merchants' sites; creating the virtual shopping cart based on a user's search query; monitoring the content of the virtual shopping cart; and collecting and managing information from the

plurality of heterogeneous and unrelated merchants' sites, across multiple independent transaction sessions initiated by the host site, based on the user's search query, and returning a corresponding comparative search result, without requiring the user to leave the host site to visit the plurality of heterogeneous and unrelated merchants' sites while the comparison shopping engine is automatically collecting and managing information from the plurality of heterogeneous and unrelated merchants' sites; and selectively communicates with the plurality of heterogeneous and unrelated merchants' sites using at least one of the schemas in the merchant schema database in order to execute a transaction for each item in the virtual shopping cart - in order to have a search capability with a universal shopping cart that provides shopping and necessary transactions across numerous online sites. Van Den Berghe discloses a virtual shopping cart at a host site, which stores information (Abstract). Phillippe discloses a system, computer program and method of creating the virtual shopping cart based on a user's search query; monitoring the content of the virtual shopping cart; and collecting and managing information from the plurality of heterogeneous and unrelated merchants' sites, across multiple independent transaction sessions initiated by the host site, based on the user's search query, and returning a corresponding comparative search result, without requiring the user to leave the host site to visit the plurality of heterogeneous and unrelated merchants' sites while the comparison shopping engine is automatically collecting and managing information from the plurality of heterogeneous and unrelated merchants' sites; and selectively communicates with the plurality of heterogeneous and

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unrelated merchants' sites using at least one of the schemas in the merchant schema database in order to execute a transaction for each item in the virtual shopping cart.

(Abstract, Col 2, lines 48 - 53 and Figures 1C, 2C & 3B). Therefore one of ordinary skill in the art would have been motivated to extend the system, computer program and method of Van Den Berghe to have enabled a shopping cart, which searches out the best price item from numerous sites and stores the information for the shopper as well as provides the transaction method to execute a transaction. In this manner, the customer's satisfaction will be increased with the ease of searching and buying, which will increase the probability that they will return for additional shopping in the future as well as recommend the site to others.

Regarding claim 4 and related claims 14 and 20 (Currently amended), Van Den Berghe teaches a system, computer program and method, further comprising maintaining the plurality of data structures necessary and the plurality of schemers (Abstract, Page 3, lines 31 – 34 and Figure 4).

Regarding claim 5 and related claim 15 (Previously presented), Van Den Berghe teaches a system, computer program and method, further comprising storing a plurality of data structures necessary to manage a plurality of shopping carts and items contained in the plurality of shopping carts (Abstract, Page 3, lines 30 – 34 and Figure 4).

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Regarding claim 6 and related claim 16 (Previously presented), Van Den Berghe teaches a system, computer program and method, wherein storing information about the plurality of schemas comprises storing information about the plurality of merchants, their communication protocols, and how any one or more of the following functions are implemented for each merchant (Abstract, Page 13, line 27 and Figures 4 & 5): add function, that adds an item to the virtual shopping cart (Page 14, lines 5 – 11); checkout function, that guides the shopper through a check out process; account retrieval feature, that provides account information; confirm order feature, that confirms a shopper's order; order confirmation feature, that receives order confirmation data (Page 14, lines 21 – 25 and lines 13 – 15). Please note that Van Den Berghe does not specifically disclose a confirm order feature. However, Phillippe does disclose a confirmation step (Figure 3C). In that regard, it would have been obvious to one of ordinary skill to add a confirm order feature.

Regarding claim 7 and related claim 17 (Previously presented), Van Den Berghe teaches a system, computer program and method, wherein collecting and managing information comprises parsing and analyzing the shopping request related to an item in the virtual shopping cart, to retrieve a corresponding merchant protocol (Abstract and Figure 4).

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Regarding claim 8, Van Den Berghe teaches a system, wherein the corresponding merchant protocol is HTTP, and information related to the item in the virtual shopping cart is encoded, at least in part, in HTML (Figure 1).

Regarding claims 21 – 26 (Currently amended), Phillippe teaches establishing a user profile database including claimed features and thus incorporation of such into the system, computer program and method of Van Den Berghe would have been obvious to one of ordinary skill.

Response to Arguments

Applicant's arguments filed 8-27-04 have been fully considered but they are not persuasive.

Applicant argues that Phillippe does not disclose a “virtual shopping cart”.

First, the applicant in their specification did not provide a specific definition of a “virtual shopping cart”. In that regard, a “online shopping cart” as defined by “Internet for Dummies” is “Stores on the web work, with or without virtual shopping carts” (underlining added for emphasis). Please note that Phillippe does not have a drawing of a shopping cart, which can and often does contain multiple items. However, Phillippe discloses and depicts a “virtual shopping cart” as defined in “Internet for Dummies” (see at least Figures 2C & D). Additionally, Phillippe discloses storing of the results of the search (see at least Col 6, lines 23 – 28 and Figures 2C & D). Moreover, and as noted, the applicant's claim language stated that “creating the virtual shopping cart based on a

user's search query". In this regard, Phillippe discloses and teaches one of ordinary skill that as result of the search query, the results of the query are returned to in a created "virtual shopping cart" (see at least Col 2, lines 59 – 64 and Figures 2C & D).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **(703) 305-8230**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **(703) 308-1344**.

After Final communications labeled


"Box AF"]

(703) 746-7418 [Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal
Drive, Arlington, VA, 7th floor receptionist.

RER


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